REMARKS

Applicant has cancelled claims 52 to 60 and claim 71 in this amendment, without prejudice. Applicant has withdrawn claims 67 and 86 to 93 due to restriction requirements. Applicant had cancelled claims 61-70, 72 to 76, and 81 to 85 in prior amendments. In this application, Applicant has added new claims 94 to 105. Now claims 77 to 80 and 94 to 105 are pending.

Applicant wishes to make on record prior art that was identified in applicant's co-pending application serial number 10/046,834, Art Unit 3628, filed: 01/15/2002, for, A Private and Secure Payment System, Examiner: Ovebisi, Ojo O. related to security of payment transactions.

Applicant also wishes to make on record prior art that was identified in applicant's co-pending application serial Number 10/091,882, Art Unit 3692, Filed:03/06/2002, for: Method and Apparatus for Restaurant Payment System, Examiner: Maguire, Lindsay M. related to security of payment transaction for a restaurant merchant.

Applicant also wishes to make on record prior art that was identified in the applicant's issued US patent 7,254,560, issued on 8/7/2007, application number 10/014,040, filed December 10, 2001, titled Method and Apparatus for an integrated identity security and payment system, related to security of identity data during payment transactions.

Claim 77 to 80 have been amended to better define the scope of the invention. For claims 77 to 80, Examiner had cited Wong, specifically col. 4, lines 53-55, and col. 5, lines 47-65. Applicant has read these lines and does not find anything that would make claim 77 to 80 obvious over Wong in view of Brody. In these lines cited by the examiner, Wong is describing in background section of Wong, a prior art patent Wallerstein, which is on a programmable transaction card much like Wong. The Wong

art is finding better ways to encode card data on the attached magnetic strip. Hence Wong art is on improved technology for an encoding card number on the attached magnetic strip, technology that is not as bulky in encoding the card number compared to what is taught in Wallerstein.

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Neither Wong nor Brody teach such payment transaction method steps as in claim 77 and dependent claims 78 to 80. Hence, the nature and scope of the claim 77 to 80 is such that under Graham v. Deere obviousness enquiry, the independent claim 77 and dependent claims 78 to 80 are not obvious over Wong in view of Brody.

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New claims 94 to 105 cover the same subject matter as the cancelled claims 52 to 60 and 71. Applicant believes, these new claims more particularly define what the applicant regards as the scope of the invention.

15 The new claims find support throughout the specification. No new matter is believed has been added. Specifically, independent system claim 94 and independent method claim 99, finds support on page 6, line 28 to page 8 line 17 and page 8, line 29 to page 9, line 29, and further page 11, line 22 to page 12, line 22. Dependent claims also find support in these pages. New claims 104 and 105 claim a similar subject matter 20 as cancelled claims and find support in these pages of the specification.

The use of the term "pre-encoded" in the claim is evident from the description of the use of the payment card, in how the payment card of this invention is used at the merchant POS. In this invention, the customer does not encode bankcard data on the 25 payment card at the time of the transaction, as is taught in Wong.

The use of the term "pre-printed" in the claim is evident from the description of the use of the payment card, in how the payment card of this invention is used at the merchant POS. In this invention, the customer does not print an alias name on the card 30 at the time of the transaction, as is taught in Wong.

Applicant believes the new claims 94 to 103 are not obvious over Wong in view of Brody and in view of Maes. Applying the Graham v. Deere obviousness test, these claims are not obvious over Wong in view of Brody and in view of Maes, for the

5   following reasons.

Wong teaches a microprocessor based smart card with an attached display, memory, and keypad means and a means for encoding an attached magnetic strip. Wong smart card is used to enter bankcard data and encode it on the magnetic strip

10   and display the name on the LCD display. Further, Wong teaches that the bankcard data and name is selected by card owner to create different cards and encode them differently, when the card-issuing bank maps to the same encoded bank data.

Brody teaches, for each payment transaction on internet, mail order and

15   telephone, first registering with an anonymous transaction server, then getting a fake bankcard data, called pseudo bankcard or anon card, where the, the elements of such a card, such as name, bankcard number, expiration date and address are fake and the customer uses this fake bankcard data to supply to the merchant on the internet, telephone for mail order for the merchant to process the payment transaction. When the

20   original bankcard issuing bank receives the transaction approval request, it connects to the transaction server. The transaction server maps anonymous card attribute to true credit card, enabling the card issuing bank to process the transaction.

Brody teaches, what the industry has called a, "one time use card", at one time

25   being marketed by American Express, for the internet/mail order transactions, which requires the customer logging in to a server, either before or during a payment transaction, and then obtain a one time use card data.

Maes teaches, pretty much what Wong teaches, except Maes uses a Portable

30   Digital Assistant (PDA) that enables the PDA to store bankcard data and transfer to a smart card via an interface. From Maes abstract, "The PDA also includes a memory for

storing financial and personal information of the user and I/O capability for reading and writing information to various cards such as smart cards, magnetic cards, optical cards or EAROM cards.

5   In contrast, to Wong, Brody and Mae, claim 94 teaches a payment card with a substrate that has a pre-encoded customer identifier without name and bankcard data, and a pre-printed alias name. These elements are neither taught nor fairly suggested and under Graham v. Deere obviousness test, the nature and scope of the claim 94 is such that it is wholly different than the Wong, Brody and Maes art singly or in any

10   combination. Specifically,

      (i) in Wong the customer is entering bankcard data in the microprocessor based Wong smart card, which then is used to display the name only on the LCD electronic display and encodes the bankcard data in the attached magnetic strip. Wong's smart card is wholly different than the pre-encoding of a customer identifier which does not

15   have name and bankcard data, that maps to a third party system and pre-printing of an alias name.

      (ii) in Maes, the customer is entering bankcard data in the microprocessor based Maes PDA, which then is used to encode a smart card. Maes, PDA created smart card is wholly different than the pre-encoding of a customer identifier which does not have

20   name and bankcard data, that maps to a third party system and pre-printing of an alias name.

      (iii) in Brody, the customer is registering to an anonymous transaction server, before or during an internet/telephone mail order transaction, and getting a psuedo or fake bankcard data that duplicates the attributes for a bankcard driven transaction, such

25   as name, card number, bank code, expiration date and address, and providing that instead to the merchant. In Brody, psuedo bankcard data obtained from an anonymous transaction server, before or during an internet/mail payment transaction anonymous server for one time use is wholly different than the payment card pre-encoded with a customer identifier which does not have name and bankcard data, that maps to a third

30   party system and pre-printed alias name.

Those skilled in the Wong and Maes art are those skilled in microprocessor-based creation of smart cards as applied to a bankcard. The "Dumb" payment card as in claim 94 of this invention itself does not contain any smartness in the form of microprocessor or means to enter any data or encode data. The payment card of this invention contains a pre-encoded customer-identifier that maps to a third party payment system. Hence those skilled in the Wong and Maes art are those not skilled in the current invention payment card as in claim 94.

For these reasons, claim 94 is wholly different and neither anticipated or obvious. Hence, claim 94 element (a) and/or (b) and any of its dependent claims 95 to 98 are neither taught nor fairly suggested and would not have been obvious to those skilled in the Wong, Brody and Maes art.

For similar reasons, method claim 99 and its dependent claims 100 to 103 are also not obvious over Wong in view of Brody, as they are neither taught nor fairly suggested by them. For similar reasons claims 104 to 105 are not obvious over Wong in view of Brody and in view of Maes as they are neither taught nor fairly suggested by them.

CONCLUSION

In conclusion, Applicant respectfully asserts that claims 77 to 80 and 94 to 105 are patentable for the reasons set forth above, and that the application is now in a condition for allowance. Accordingly, an early notice of allowance is respectfully requested. The Examiner is requested to call the undersigned at 310-540-4095 for any reason that would advance the instant application to issue.

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Respectfully submitted,

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